IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
Income Tax Application No.3 of 2001

The Commissioner of Income Tax. .. Applicant
v/s.
Cromption Greaves Ltd. .. Respondent

Mr.Parag Vyas for applicant.
Mr.Atul Jasani i/by M/s.Udwadia & Udeshi for respondent.

CORAM : H.L. GOKHALE &
J.P. DEVADHAR, JJ.

DATED : 5th December 2005

P.C. :

1. Heard Mr.Vyas in support of this Application. Mr.Jasani appears for the respondent. The following questions are raised for our consideration:-

" 1. Whether on the facts and circumstances of the case and in law, the Tribunal was correct in directing to exclude the expenditure on payment to Hotel segregated out of foreign travelling expenditure for disallowance under section 37(3A) of I.T. Act ?

2. Whether on the facts and circumstances of the case and in law, the Tribunal was correct in allowing the know-how as

revenue expenditure on the ground that the payment is made by the assessee for the user of the patent and licence and not for acquiring them ? "

2. As far as Question No.1 is concerned, it raises a substantial question of law.

3. As far as Question No.2 is concerned, the Counsel appearing for the revenue accepts that the same is already decided against the revenue for the earlier assessment year 1981-82 and the same has been accepted by the department. Hence, as far as Question No.2 is concerned, no reference is required.

4. In the circumstances, we direct the Tribunal to state the case and refer the same to the High Court for determination of the above Question No.1. Application is allowed in the above terms.

(H.L. GOKHALE, J.)

(J.P. DEVADHAR, J.)